

E-filed 4/8/13

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DARRYL BURGHARDT,

No. C 12-5190 RS (PR)

Plaintiff,

ORDER REOPENING ACTION;

v.

**ORDER DISMISSING COMPLAINT
WITH LEAVE TO AMEND**

J. FRANZ, et al.,

Defendants.

This federal civil rights action was dismissed because plaintiff failed to comply with the Court's order to pay the filing fee or file a complete application to proceed *in forma pauperis* ("IFP"). Plaintiff since has filed the necessary IFP documentation and moved to reopen the action. His motion to reopen the action (Docket No. 10) is GRANTED, the action is hereby REOPENED, and the Clerk is directed to update the docket accordingly. The judgment (Docket No. 7) and the order of dismissal (Docket No. 6) are hereby VACATED.

In order to ensure that plaintiff's claims are up to date, the complaint is DISMISSED with leave to file an amended complaint on or before June 15, 2013. No extensions of time will be granted. A civil rights complaint form will be sent to plaintiff. The amended complaint must include the caption and civil case number used in this order

No. C 12-5190 RS (PR)
ORDER REOPENING ACTION

(12-5190 RS (PR)) and the words FIRST AMENDED COMPLAINT on the first page. Because an amended complaint *completely* replaces the previous complaints, plaintiff must include in his first amended complaint *all* the claims he wishes to present and *all* of the defendants he wishes to sue. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Any claims not raised in the first amended complaint will be deemed waived. Plaintiff may *not* incorporate material from the prior complaint by reference. Failure to file an amended complaint in accordance with this order will result in dismissal of this action without further notice to plaintiff.

It is plaintiff's responsibility to prosecute this case. Plaintiff must keep the Court informed of any change of address by filing a separate paper with the clerk headed "Notice of Change of Address." He must comply with the Court's orders in a timely fashion or ask for an extension of time to do so. Failure to comply may result in the dismissal of this action pursuant to Federal Rule of Civil Procedure 41(b). The Clerk shall terminate Docket No. 10.

IT IS SO ORDERED.

DATED: April 8, 2013


RICHARD SEEBORG
United States District Judge